

EMERGING SMALL BUSINESS PROGRAM

DESCRIPTION

This standard special provision describes the Emerging Small Business (ESB) Program that is included in the Contract. The program is further described by the ESB Program Rules. Anyone who has questions about the Program should contact the ESB Program Manager at (303) 757-9162 or 1-800-925-3427. Mail should be directed to the ESB Program Manager at the Colorado Department of Transportation (CDOT), Business Programs Office, 4201 East Arkansas Avenue, Denver CO 80222. ESB information is also available on CDOT's website: www.dot.state.co.us/EEO/ESBProgramPage.htm

GENERAL REQUIREMENTS - CONSTRUCTION CONTRACT OBLIGATIONS

(a) Definition and Eligibility. An Emerging Small Business (ESB) is a business which the Colorado Department of Transportation has determined meets the eligibility criteria and requirements of the ESB Rules, as follows:

1. Eligibility Requirements. The business must submit to CDOT, in its application, proof of either:

- A. Completion, by a principal of the business, of a minimum of 6 hours of class or seminar instruction within the last two years on subjects applicable to a small business, including topics such as planning, marketing, and finance; or
- B. Completion, by a principal of the business, of the U. S. Small Business Administration "Small Business Workshop" training course, or of any similar course that has been previously identified by the ESB Program Manager as equivalent thereto and that is available from a local source.

There is no minimum time the business must have been in operation before applying for ESB status.

The business must have all necessary licenses, permits and registrations to do business in the State of Colorado.

The business must be an independent business.

A construction business must not have exceeded a total gross annual income of \$4,500,000 averaged over the past three fiscal years. A consultant business must not have exceeded a total gross annual income of \$2,000,000 averaged over the past three fiscal years.

The business must commit in writing to complete a Business Development Plan during each year of ESB eligibility.

Each business in the ESB Program shall file an application with CDOT to renew its eligibility annually. The maximum term of the eligibility of a business in the ESB Program is a period of twelve active eligible years.

2. Determination of Eligibility as ESB by CDOT. Any contractor may apply to the ESB Program Manager for status as an ESB. Application need not be made in connection with a particular bid.

It shall be the business' responsibility to submit applications so that the ESB Program Manager has sufficient time to render decisions. The ESB Program Manager will review applications in a timely manner but is not committed to render decisions about a business' ESB status within any given period of time. Applications can be obtained from CDOT's website or by contacting the ESB Program Manager. The ESB Program Manager will maintain and make available a Directory of eligible ESB contractors and consultants. Bidders will be solely responsible for verifying the eligibility of ESBs they intend to use prior to submitting a proposal. Verification can be made by calling the ESB Program Manager.

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(b) Reimbursement Payments. Only one of the following two types of reimbursement payments may be made to the Contractor per ESB subcontractor.

1. **First-Time Reimbursement Payment.** The ESB Program Manager will authorize reimbursement payment to the Contractor if a retained ESB has never before had a contract or a subcontract on a CDOT project. Payment is earned only one time per project, regardless of how many ESBs are retained as subcontractors on the project. Payment will be 10 percent of the dollar value of work performed by the ESB subcontractor on the project. Payment shall not exceed a maximum amount of \$5,000.

CDOT Form No. 977 (copy attached) describes the terms and conditions for receiving this payment. This form must be submitted with CDOT Form No. 205 to the Project Engineer.

CDOT Form No. 980 (copy attached) evaluating the ESB firm's performance shall be submitted to the project engineer upon completion of the subcontract work or every six months that the ESB is actively working on the project, if subcontract exceeds 6 months. Request for payment may be submitted when the subcontractor has completed work on the project and payment will be based on the final subcontract amounts. Request for payment shall be submitted with CDOT Form No. 981 (copy attached) directly to the ESB Program Manager.

2. **Hourly Reimbursement Payment.** The Department will provide hourly reimbursement to the Contractor if it retains one or more ESBs as subcontractors on the project. Payment is based upon the number of hours spent by the Contractor providing work-related services to the ESBs on the project, multiplied by the rate of pay listed below. Payment for each ESB assisted shall not exceed 10% of the ESB's subcontract, and the total shall not exceed \$7,500 per project. The Contractor shall submit a completed CDOT Form No. 978 (copy attached), which documents the specific assistance that was provided to the ESB subcontractor, with the CDOT Form 980 (copy attached) and a signed invoice which documents the number of hours of work-related services provided to the ESB to the Project Engineer for inclusion with the monthly pay estimate. The following wages will be paid per hour:

- Project Superintendent \$34.90
- Foreman \$23.95
- General office help \$18.40
- Estimator or Project Scheduler \$28.45

Loading and fringe benefits are included in these rates

(c) Assistance with Bonding. Bonding assistance shall not exceed the maximum amount of \$5,000 per duration of time in the program for ESB prime contract awards and \$5,000 per duration of time in the program for ESB subcontract awards where bonding is required by CDOT or the prime contractor.

1. Where the ESB is the Prime Contractor, CDOT will pay a certain percentage of the cost of the bond obtained by the ESB Prime Contractor as specified in the ESB's Business Development Plan negotiated with ESB Program Manager. The total amount paid to any specific ESB for this purpose on all CDOT projects shall not exceed \$5,000 per duration of time the ESB is in the program.. The ESB Prime Contractor shall submit a billing requesting payment and proof that the bond has been paid to the ESB Program Manager. If the ESB has never had a CDOT contract, a W-9 (Request for Taxpayer Identification Number (TIN) Verification), shall be submitted to the ESB Program Manager. An ESB Prime Contractor may only apply for one type of reimbursement payment per project.

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2. If an ESB subcontractor is able to obtain bonding required by the Contractor, CDOT will pay a certain percentage of the cost of the bond obtained by the ESB subcontractor, as defined in the ESB's Business Development Plan negotiated with ESB Program Manager, provided that the total amount paid to any specific ESB for this purpose on all CDOT projects shall not exceed \$5,000 per duration of time the ESB is in the program. The Prime Contractor shall submit CDOT Form No. 979 (copy attached) to the ESB Program Manager. The ESB subcontractor must submit proof that bonding was required and proof that the bond has been paid to the ESB Program Manager. The Prime Contractor and the ESB subcontractor shall each submit a W-9, to the ESB Program Manager.
3. If an ESB subcontractor is unable to obtain bonding required by the Contractor and if the Contractor agrees to waive its bonding requirements for the ESB subcontractor, CDOT will provide assistance to the ESB subcontractor by reimbursing the prime contractor up to 5 percent of the ESB's subcontractor award to a maximum of \$5,000 for costs incurred which result from the ESB subcontractor's failure to perform.

Attachments:

Form 977
Form 978
Form 979
Form 980
Form 981

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